

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

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**CYTEC INDUSTRIES INC.**

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**ENFORCEMENT TRACKING NO.**

**AE-CN-02-0063**

**PROCEEDINGS UNDER THE LOUISIANA**

**ENVIRONMENTAL QUALITY ACT**

**LA. R.S. 30:2001, ET SEQ.**

**SETTLEMENT**

The following Settlement is hereby agreed to between Cytec Industries Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “Department”), under authority granted by the Louisiana Environmental Quality Act, LSA- R.S. 30:2001, et seq. (“the Act”).

**I**

Respondent is a corporation who owns and/or operates a facility that produces urea and melamine and operates under multiple permits at Fortier Plant located at 10800 River Road in Westwego, Jefferson Parish, Louisiana (“the Facility”).

**II**

On February 3, 2003, the Department issued a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. AE-CN-02-0063, to Respondent, which was based upon the following findings of fact:

On or about May 9, 2002, a file review of Cytec Industries Inc.’s Fortier Plant was performed to determine the degree of compliance with the Act and Air Quality Regulations.

While the Department's investigation is not yet complete, the following violations were noted during the course of the file review:

- A. The Department received an unauthorized release report notification from the Respondent dated June 14, 2001, indicating a release of approximately 330 pounds of methyl methacrylate. The release reportedly occurred due to the failure of a rupture disk on Rohm-III Distillation Vessel 1 (DV1) while attempting to transfer acid from Rohm-VI to Rohm-III. According to the Respondent's unauthorized release report notification, tars became lodged in an improperly installed catcher mitt strainer, resulting in an increase in pressure and subsequent failure of the rupture disc. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Sections 2057(A)(1) and (A)(2) of the Act.
  
- B. The Department received an unauthorized release report notification from the Respondent dated April 26, 2001, indicating a release that occurred on April 19, 2001, when the roof of the MET 2 hazardous waste tank collapsed. The Department has also received a letter from the Respondent dated August 30, 2002, in response to a letter from Steven Aguillard of LDEQ requesting additional information concerning the April 19, 2001 incident. It was later discovered that emission calculation errors were made in the original release report dated April 26, 2001, and in the Respondent's letter dated August 30, 2002. The Respondent submitted the corrected emission calculations to the Department by electronic mail on October 9, 2002. According to the information submitted to the Department, the release occurred while the MET 2 tank was out of service for maintenance. At this time, the vacuum/pressure relief device was removed from the tank for testing and a temporary cover was placed over the opening to avoid having emissions. On the morning of April 19, 2001, liquid was pumped from the tank. Because the vacuum/pressure control device was removed and replaced by a temporary cover, a vacuum was created inside the tank, resulting in the collapse of the roof and subsequent unauthorized release. The amounts of each chemical released are summarized in the table below. The release was secured approximately 50.25 hours later

when temporary repairs to the tank were completed. This is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Control equipment as defined by LAC 33:III.111 is "any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollution." This is also a violation of Air Permit Number 2306, LAC 33:III.501.C.4, and Sections 2057(A)(1) and (A)(2) of the Act.

<b>Chemical Released</b>	<b>Quantity Released (lbs)</b>	<b>Permitted Amount (lbs)</b>	<b>Amount Released Above Permitted Limits (lbs)</b>
Acrylic Acid	0.6181	0.0452	0.5729
Acrylamide	6.1808	0.4523	5.7285
Acetone	0.7186	0.0503	7.1357
Methanol	1.1306	0.0804	1.0502
Methyl Methacrylate	0.6181	0.0452	0.5729
Acetonitrile	7.7234	0.5628	7.1606
Acrylonitrile	0.7186	0.0503	0.6683
Ammonia (anhydrous)	3.6080	0.2663	3.3417
Toluene	4.5225	0.0000	4.5225

- C. The Department received a letter from the Respondent dated April 26, 2001, stating that, due to mechanical failure, one of the scrubbers on Emission Point Number 2-77 would be operating at 40% removal efficiency rather than the 95% efficiency required by Air Permit Number 2306. The letter also requested that the Respondent be granted a variance to operate the scrubber at the reduced efficiency for six months in order to complete repairs on the scrubber system. The variance was granted by the Department and became effective on June 21, 2001. However, the Respondent continued to operate the scrubber system at a reduced efficiency between April 21, 2001, and the time that the variance was granted on June 21, 2001. In a letter addressed to Steven Aguillard dated August 30, 2002, the Respondent submitted to the Department the estimated amounts of each chemical released during

this period. It was later discovered that emission calculation errors were made in the Respondent's letter. The Respondent submitted the corrected emission calculations to the Department by electronic mail on October 9, 2002. The amount of each chemical released per day during the time frame of April 21, 2001, through June 21, 2001, is noted in the table below. The excess emissions represent violations of Air Permit Number 2306, LAC 33:III.501.C.4, and Sections 2057 (A)(1) and (A)(2) of the Act.

<b>Chemical Released</b>	<b>Quantity Released Per Day (lbs)</b>	<b>Permitted Amount Per Day (lbs)</b>	<b>Amount Released Per Day Above Permitted Limits (lbs)</b>
Acrylic Acid	0.1800	0.0216	0.1584
Acrylamide	1.8000	0.2160	1.5840
Acetone	2.0880	0.0240	2.0640
Methanol	0.3288	0.0384	0.2904
Methyl Methacrylate	0.1800	0.0216	0.1584
Acetonitrile	2.2488	0.2688	1.9800
Acrylonitrile	0.2088	0.0240	0.1848
Ammonia (anhydrous)	1.0512	0.1272	0.9240
Toluene	2.1600	0.0000	2.1600

On or about May 29, 2002, an inspection of Cytex Industries Inc.'s Fortier Plant was conducted to determine the degree of compliance with the Act and Air Quality Regulations.

While the Department's investigation is not yet complete, the following violation was noted during the course of the inspection:

Records of daily opacity checks for the dates of March 25-30, 2002, April 22-28, 2002, and May 6-12, 2002, could not be located. Each is a violation of Specific Condition Number 4 of Air Permit Number 1981 (M-4), LAC 33:III.501.C.4, and Section 2057(A)(2) of the Act.

### III

In response to the Consolidated Compliance Order and Notice of Potential Penalty, Respondent made a timely request for a hearing.

### IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

### V

Nonetheless, the Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of NINE THOUSAND, FIVE HUNDRED AND NO/100 DOLLARS (\$9,500.00) of which FIVE HUNDRED TWO AND 63/100 DOLLARS (\$502.63) represents DEQ's enforcement costs, in settlement of the claims set forth in this agreement.

### VI

The total amount of money expended by Respondent on cash payments to DEQ as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30: 2050.7(E)(1).

### VII

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action the Respondent shall be estopped from

objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

#### VIII

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement.

#### IX

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R.S. 30:2025(E).

#### X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Jefferson Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

#### XI

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of

Darryl Serio, Office of Management and Finance, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

## XII

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

## XIII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his/her respective party, and to legally bind such party to its terms and conditions.

WITNESSES:

RESPONDENT

\_\_\_\_\_

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

\_\_\_\_\_

TITLE: \_\_\_\_\_

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_, in \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

WITNESSES:

STATE OF LOUISIANA  
Hall Bohlinger, Secretary  
Department of Environmental Quality

\_\_\_\_\_

\_\_\_\_\_

BY: \_\_\_\_\_  
R. Bruce Hammatt, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20 \_\_\_\_, in Baton Rouge, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC

Approved: *R. Bruce Hammatt*  
R. Bruce Hammatt, Assistant Secretary

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

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ENVIRONMENTAL QUALITY ACT

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AE-CN-02-0063

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LA. R.S. 30:2001, ET SEQ.

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This Settlement Agreement has been reviewed, and is concurred in, by the Attorney General, under the provisions of La. R.S. 30:2050.7.

RICHARD P. IEYOUB  
ATTORNEY GENERAL

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
ASSISTANT ATTORNEY GENERAL